

THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON

GLACIER NORTHWEST, INC.,

Plaintiff,

v.

CEMENTAID INTERNATIONAL
MARKETING, LTD.,

Defendant.

Case No. 2:18-cv-00556-TSZ

**DECLARATION OF JARED D.
SCHUETTENHELM IN SUPPORT
OF DEFENDANT CEMENTAID
INTERNATIONAL MARKETING,
LTD.'S MOTION TO DISMISS
GLACIER NORTHWEST, INC.'S
AMENDED COMPLAINT**

I, Jared D. Schuettenhelm, declare as follows:

1. I am an attorney at Bracewell LLP, representing Defendant Cementaid International Marketing, Ltd. ("Cementaid"). I offer this declaration in support of Cementaid's Motion to Dismiss Glacier Northwest, Inc.'s ("Glacier") Amended Complaint. I have personal knowledge of the facts set forth herein and, if called upon as a witness, I could and would competently testify thereto.

2. I have reviewed the Marketing and Material Supply Agreement ("Agreement"), executed on December 31, 2001, between Glacier and Cementaid.

3. The Agreement refers to Cementaid as "CAIM" and Glacier as "GNW."

4. Recital A of the Agreement states:

A. CAIM owns and grants certain rights to store, sell and distribute concrete enhancement additives, admixtures and surface treatments (hereinafter called "the Schedule Products").

5. Recital B of the Agreement states:

B. GNW, acting in its capacity as an independent contractor, desires to store, distribute and sell the Schedule Products as an agent and distributor, in those states of the United States of America being: Washington, Oregon, California, Montana, Idaho, Nevada, Wyoming, Utah, Arizona, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Alaska, Hawaii and the Canadian Province of British Columbia, hereinafter called the "Territory".

6. Section 12.2 of the Agreement states:

12.2 GNW hereby agrees to defend, indemnify and hold CAIM harmless from and against any and all claims, actions, damages, liabilities, and expenses (including reasonable attorneys' fees) arising from or occasioned by any of the following: (a) the negligence or intentional acts of GNW with regard to GNW's shipping, transport, storage, distribution, sale or use of the Schedule Products or (b) infringement by GNW of any third-party's intellectual property rights in connection with the sale of the Schedule Products.

7. Section 16.1 of the Agreement states:

16 INDEPENDENT CONTRACTOR.

16.1 The relationship between the parties is that of independent contractors and this Agreement shall not be construed to create a partnership, joint venture, agency, franchise or other relationship. Neither party shall have authority to create, or to assume in the name of other party or on its behalf, any obligations, express or implied, for any purpose.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 21st day of November, 2018, in Seattle Washington

By: /s/ Jared D. Schuettenhelm
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on November 21, 2018 to all counsel of record who have consented to electronic service via the Court's CM/ECF system.

/s/ Philip J. Bezanson

Philip J. Bezanson